



January 21, 2019

**HR2W**

Attn: Carolina Balazs  
Office of Environmental Health Hazard Assessment  
1515 Clay Street, 16th Floor  
Oakland, CA 94612

**Subject: OEHHA's "Framework and Tool for Evaluating California's Progress in Achieving the Human Right to Water" Framework and Tool for Evaluating California's Progress in Achieving the Human Right to Water"**

On behalf of the California Association of Mutual Water Companies ("CalMutuals"), we would like to thank you for the opportunity of submitting the following comments about the Office of Environmental Health Hazards Assessment (OEHHA) draft "Framework and Tool for Evaluating California's Progress in Achieving the Human Right to Water" ("HRTW Tool"). Overall, the draft HRTW Tool takes a very narrow approach with a set of metrics that are based on the false premise that the task of fulfilling the HRTW is a matter of factors found as deficiencies supposedly inherent to communities of color, lower income classes with a need to justify charity. The tool misses the opportunity to measure California's success in meeting the Human Right to Water in other circumstances when access to safe drinking water is impaired; as well as missing an opportunity to measure the effectiveness of responses to those other circumstances by the state and local government. This may be instructive in also determining factors for success in meeting the Human Right to Water where poverty is the leading factor and where there may be inequities in the response by the state.

CalMutuals was founded in 2013 and represents 400 mutual water companies in California, including many disadvantaged communities, senior communities, and very small water systems. We were founded to provide advocacy for our members and to coordinate programs that provide ethics training, continuing education credits, safety training and peer to peer assistance. Mutual water companies are private not-for-profits funded and governed by members of the community who are also the company shareholders. We are limited to only charging for the cost of service.

### **The Human Right to Water is For Everyone's Benefit**

As stated in OEHHA's draft report released on January 3, 2019, the Human Right to Water Act (HRTWA) (Assembly Bill (AB) 685)(Eng), established a state policy that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes. The OEHHA report describes an analytical process it refers to as a Human Right to Water Tool ("HRTW Tool") that ignores the role that the state and federal governments at times play in creating regulations that are economically infeasible not only for communities of color and lower income categories, but also for other communities and demographics with limited ability to generate revenue for expensive compliance measures such as seniors, and older, smaller communities. This was the basis of Sacramento Superior Court's ruling invalidating the MCL for Hexavalent Chromium in 2017. In addition, aside from the economic infeasibility of compliance with some regulations, is the fact that water suppliers are constantly having to deal with increased regulations and complying with new statutory requirements, rarely with the ability to recover such mandated costs from the state.

While the State Water Resources Control Board has funds to distribute as grants and loans for water quality compliance needs, it does not assemble the resources in the form of a plan when contaminant standards are set. The compliance plan could help systems that can't afford new standards and regulations with targeted grants and loans. Instead, water systems serving disadvantaged communities and others have reported wait times as long as 4 years for notification of a grant/loan applications' approval or denial. During the week of January 14, 2019, dozens of Safe Drinking Water grant/loan recipients, reported receiving notifications from the Division of Financial Assistance under the State Water Board, advising them that a massive accounting software failure has rendered them unable to process any billings, reimbursements or issue new grant contracts for the foreseeable future. They were told to expect significant delays and not to worry about being over-due on loan payments if there is no invoice forthcoming. It is imperative that OEHHA include a metrics for the State Water Board and the Department of Water Resources' ability to deploy grants and assistance under a variety of circumstances that imperil the human right to water.

### **Access to Safe Drinking Water Can Be Impaired by Factors Other Than Poverty & Race**

Lacking access to safe drinking water is triggered by varying obstacles in affordability, as well as access, but not simply by race or economic class alone. While poverty is a prolonged condition, a person of any income class may suffer from a lack of drinking water due to a crisis such as the recent fires in 2018, as well as floods and earthquakes that can leave entire neighborhoods without access to drinking water. Yet, there is no measurement in the HRTW tool for gaging how the government deploys current financial and technical resources to satisfy the HRTW under those emergency conditions. State and other levels of government, as well as taxpayers, react differently to the lack of water for basic needs under different circumstances. Understanding this dynamic is important in the allocation of resources under all circumstances, be they driven by emergencies or poverty. As previously illustrated, the HRTW tool is completely silent on such measurement.

**Lacks Metric for Measuring Disparities in Distribution of Resources to Meet HRTW Goals**

The HRTWA is intended for all residents of California regardless of color, and economic class, across a spectrum of factors that could threaten and impair access to safe drinking water. The HRTW tool fails to provide a metric for evaluating the equity in the distribution of existing infrastructure spending, process efficiency, and emergency response versus addressing poverty in the distribution of potential aid, grants and loans among all types of resident classifications and water systems. We recommend that OEHHA consult with the Los Angeles Department of Water and Power (LADWP) which in 2017 approved a tool called the "Equity Metrics Data Initiative" (EMDI) that tracks how LADWP spends ratepayer funds across Los Angeles. EDM I helps to ensure that residents/taxpayers, across all types of demographic, economic, geographic, and other meaningful distinctions of need, are equitably treated. This includes the equitable and efficient deployment of services such as infrastructure maintenance, customer service/emergency response times, low-income rate assistance distribution and water quality (e.g., replacement of lead in the distribution system).

**Conclusion:**

Given its narrow focus as a measure for who deserves charity, without addressing broader responsibility and existing resources that society and government exercise in assuring the Human Right to Water, we believe that the HRTW Tool does not provide an adequate premise or tool for addressing the implementation of the Human Right to Water in any current legislative or regulatory process.

A more expansive approach could lend itself to establish measurements that may warrant emergency declarations when the deployment of state resources to meet the human right to water is failing. Such a declaration may warrant intervention by the Governor in addressing the chronic failure of agencies administering grants and loans to those facing challenges under their human right to water by creating a taskforce of cabinet level secretaries to resolve existing deficiencies. Such a declaration may also open previously unavailable grant and loan opportunities.

Thank you for the opportunity to provide the preceding comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Adán Ortega", followed by a period.

Adán Ortega  
Executive Director  
California Association  
of Mutual Water Companies